IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

HON'BLE MR. JUSTICE M.H.S. ANSARI

and
HON'BLE MR. JUSTICE T.CH.SURYA RAO

WRIT PETITION No.2977 of 2005

Between:

Palacharla Brahmaji @ Trimurthulu, s/o Suryanarayana,
R/o Pedapudi, Pedapudi Mandalam, East Godavari District.

..... PETITIONER

AND

The Deputy Commercial Tax Officer,
Samalkota, East Godavari District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent in attaching the land and buildings of the petitioner's rice mill situated in Door No. 1-83B (corresponding Door No. 1-84) in the area of Ac. 0-40 cents in R.S.No. 557/1 of Pedapudi village, East Godavari District and auctioning the same on 22-2-2005 for realising the arrears of Sales Tax due to the Department due from Sri Venkateswara Rice Mill, Pedapudi is illegal, arbitrary, erroneous and contrary to the provisions of A.P. Sales Tax Act and consequently direct the Respondent to withdraw the notice of attachment and sale issued on
28-1-2005 and pass such other order or orders as this Hon'ble Court may deem fit

and proper in the circumstances of the case.

Counsel for the Petitioner :MR.NUTY RAM MOHAN RAO

Counsel for the Respondent : Spl. Govt. Pleader for Taxes

The Court made the following :

ORAL ORDER: (Per Hon'ble Mr. Justice M.H.S.Ansari)

Heard learned counsel for the petitioner and learned Special Government Pleader for Commercial Taxes.

Keeping in view of the fact that what is questioned is a notice of attachment issued in Form-5 under Andhra Pradesh Revenue Recovery Act for realisation of sales tax due, and also keeping in view that the same is challenged mainly on the ground that the petitioner is not a defaulter, and therefore the premises i.e. Door No.1-83-B in the extent of Ac.0-40 cents in R.S.No.557/1, Pedapudi village, East Godavari district, cannot be sold for realisation of the tax arrears said to be due from Sri Venkateswara Rice Mills, we are not inclined to entertain the instant writ petition. This is for the reason that a writ court normally does not decide the disputed question as to title. The petitioner is relegated to avail of the remedy of civil suit or such other remedy open to the petitioner in law, as he may be advised.

For the aforesaid reasons, be it clarified that we have not gone into the main controversy keeping all the questions open. The writ petition is accordingly dismissed at the admission stage with liberty as aforestated, reserved to the petitioner.

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M.H.S.ANSARI, J

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T.CH.SURYA RAO, J

21-02-2005

bsc

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1) The Deputy Commercial Tax Officer,
Samalkota, East Godavari District.

2) 2 CCs to Spl. Govt. Pleader for Commercial Taxes, High court buildings,
Hyderabad)OUT)

3) 2 CD copies

*Form-NIC-OGS/WP{**AVLR**}*